

## DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED RULEMAKING

The Acting Director of the Department of Human Services, pursuant to the authority set out in the Mayor's Reorganization Plan No. 3 of 1986, Section 3 of the District of Columbia Employees Child Care Facilities Act of 1986, effective February 24, 1997 (D.C. Law 6-169; D.C. Official Code, § 4-902), Section 2 of the Day Care Policy Amendment Act of 1998, effective April 13, 1999 (D.C. Law 12-216, § 2; D.C. Official Code, § 4-404.1), and Section 503 of the Omnibus Budget Support Act of 1995, effective September 26, 1995 (D.C. Law 11-52; D.C. Official Code, § 4-409(h) and 4-410(b)), the Day Care Policy Act of 1979 Amendment Act of 1995, effective February 17, 1995 (D.C. Law 11-2, § 2; D.C. Official Code, § 4-410 (a-1)), and Mayor's Order 98-11, dated February 9, 1998, hereby gives notice of the intent to adopt the following amendments to section 309 of Chapter 3 of Title 29 of the District of Columbia Municipal Regulations entitled "Eligibility Requirements for Subsidized Child Care." These emergency and proposed rules reduce the income eligibility level from a maximum of 250% of the federal poverty level ("FPL") rates in use since October 1, 2001 to 200% of the current 2003 FPL rates for new applicants of subsidized child care and from a maximum of 300% of the FPL rates in use since October 1, 2001 to 200% of the current 2003 FPL rates for recipients currently receiving subsidized child care.

The proposed rules amend the income eligibility level for all employed recipients and applicants of subsidized child care and the Sliding Fee Scale used to calculate the parent co-payment for subsidized child care. These rules must be adopted to enable the District to reduce the number of eligible families due to current financial challenges faced by the District of Columbia. These rules will allow the District to accomplish the objectives of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193, August 22, 1996) ("Welfare Reform Act of 1996") "Welfare to Work" initiatives and to meet the immediate needs of families who receive Temporary Assistance to Needy Families ("TANF") and those low-income working customers earning 200% or less of the FPL.

The Acting Director gives notice of intent to take final rulemaking action to adopt the proposed rules in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

Title 29 DCMR, Chapter 3, is amended by deleting section 309 and substituting in lieu thereof the following new section 309:

**309 ELIGIBILITY CRITERIA FOR SUBSIDIZED CHILD CARE AND  
SCHEDULE OF PARENT FEES FOR DISTRICT OF COLUMBIA  
GOVERNMENT SUBSIDIZED CHILD CARE SERVICES IN CHILD  
DEVELOPMENT CENTERS AND CHILD DEVELOPMENT HOMES, AND BY  
RELATIVE AND IN-HOME CAREGIVERS**

- 309.1 The following shall establish the criteria for eligibility for subsidized childcare for families with incomes up to eighty-five percent (85%) of the State Medicaid Income ("SMI") or with incomes that fall within the FPL for different family sizes.

#### Eligibility Criteria for Child Care

Family Size	(a) 85% of State Median Income (SMI) (\$/month)	(b) Income Level Lower than 85% of SMI, if used to limit eligibility (\$/month)
1	2,335	1,497
2	3,054	2,020
3	3,773	2,543
4	4,491	3,067
5	5,210	3,598

- 309.2 The following fees shall be paid by a parent for child care services provided to the parent's child when the District of Columbia supplements the payment for child care services.

#### SLIDING FEE SCALE FOR PARENT CO-PAYMENT FEES

%FPL	ANNUAL INCOME BY FAMILY SIZE					DAILY CO-PAY			
						CHILDREN IN CARE			
						FULL TIME		PART TIME	
	1	2	3	4	5	First	Second	First	Second
0-50%	\$4,490	\$6,060	\$7,630	\$9,200	\$10,770	\$0	\$0	\$0	\$0
51-60%	\$5,388	\$7,272	\$9,156	\$11,040	\$12,924	\$0.57	\$0.43	\$0.29	\$0.22
61-70%	\$6,286	\$8,484	\$10,682	\$12,880	\$15,078	\$0.75	\$0.57	\$0.38	\$0.29
71-80%	\$7,184	\$9,696	\$12,208	\$14,720	\$17,232	\$1.01	\$0.75	\$0.51	\$0.38
81-90%	\$8,082	\$10,908	\$13,734	\$16,560	\$19,386	\$1.27	\$0.95	\$0.64	\$0.48
91-100%	\$8,980	\$12,120	\$15,260	\$18,400	\$21,540	\$1.62	\$1.22	\$0.81	\$0.61
101-110%	\$9,878	\$13,332	\$16,786	\$20,240	\$23,694	\$2.02	\$1.51	\$1.01	\$0.76
111-120%	\$10,776	\$14,544	\$18,312	\$22,080	\$25,848	\$2.45	\$1.84	\$1.23	\$0.92
121-130%	\$11,674	\$15,756	\$19,838	\$23,920	\$28,002	\$2.93	\$2.20	\$1.47	\$1.10
131-140%	\$12,572	\$16,968	\$21,364	\$25,760	\$30,156	\$3.46	\$2.60	\$1.73	\$1.30
141-150%	\$13,470	\$18,180	\$22,890	\$27,600	\$32,310	\$4.07	\$3.05	\$2.04	\$1.53
151-160%	\$14,368	\$19,392	\$24,416	\$29,440	\$34,464	\$4.73	\$3.55	\$2.37	\$1.78
161-170%	\$15,266	\$20,604	\$25,942	\$31,280	\$36,618	\$5.43	\$4.08	\$2.72	\$2.04
171-180%	\$16,164	\$21,816	\$27,468	\$33,120	\$38,772	\$6.19	\$4.65	\$3.10	\$2.33
181-190%	\$17,062	\$23,028	\$28,994	\$34,960	\$40,926	\$7.00	\$5.25	\$3.50	\$2.63
191-200%	\$17,960	\$24,240	\$30,520	\$36,800	\$43,080	\$7.91	\$5.93	\$3.96	\$2.97

						DAILY CO-PAY			
						CHILDREN IN CARE			
ANNUAL INCOME BY FAMILY SIZE						FULL TIME		PART TIME	
%FPL	6	7	8	9	10	First	Second	First	Second
0-50%	\$12,340	\$13,910	\$15,480	\$17,050	\$18,620	\$0	\$0	\$0	\$0
51-60%	\$14,808	\$16,692	\$18,576	\$20,460	\$22,344	\$0.57	\$0.43	\$0.29	\$0.22
61-70%	\$17,276	\$19,474	\$21,672	\$23,870	\$26,068	\$0.75	\$0.57	\$0.38	\$0.29
71-80%	\$19,744	\$22,256	\$24,768	\$27,280	\$29,792	\$1.01	\$0.75	\$0.51	\$0.38
81-90%	\$22,212	\$25,038	\$27,864	\$30,690	\$33,516	\$1.27	\$0.95	\$0.64	\$0.48
91-100%	\$24,680	\$27,820	\$30,960	\$34,100	\$37,240	\$1.62	\$1.22	\$0.81	\$0.61
101-110%	\$27,148	\$30,602	\$34,056	\$37,510	\$40,964	\$2.02	\$1.51	\$1.01	\$0.76
111-120%	\$29,616	\$33,384	\$37,152	\$40,920	\$44,688	\$2.45	\$1.84	\$1.23	\$0.92
121-130%	\$32,084	\$36,166	\$40,248	\$44,330	\$48,412	\$2.93	\$2.20	\$1.47	\$1.10
131-140%	\$34,552	\$38,948	\$43,344	\$47,740	\$52,136	\$3.46	\$2.60	\$1.73	\$1.30
141-150%	\$37,020	\$41,730	\$46,440	\$51,150	\$55,860	\$4.07	\$3.05	\$2.04	\$1.53
151-160%	\$39,488	\$44,512	\$49,536	\$54,560	\$59,584	\$4.73	\$3.55	\$2.37	\$1.78
161-170%	\$41,956	\$47,294	\$52,632	\$57,970	\$63,308	\$5.43	\$4.08	\$2.72	\$2.04
171-180%	\$44,424	\$50,076	\$55,728	\$61,380	\$67,032	\$6.19	\$4.65	\$3.10	\$2.33
181-190%	\$46,892	\$52,858	\$58,824	\$64,790	\$70,756	\$7.00	\$5.25	\$3.50	\$2.63
191-200%	\$49,360	\$55,640	\$61,920	\$68,200	\$74,480	\$7.91	\$5.93	\$3.96	\$2.97

309.3 A parent shall not pay a co-payment fee for additional children after the payment of the assessed fee for the second child. The co-payment fees for part-time care (less than six (6) hours per day) shall be fifty percent (50%) of the amounts shown in the fee schedule for the cost of care for a specific family size.

309.4 If a family's annual income exceeds two hundred (200%) of the poverty level for the family size, the family shall be ineligible to participate in the Child Care Subsidy Program.

### 399 DEFINITIONS

399.1 For purposes of these rules, the following terms and phrases shall have the meanings ascribed below:

**FPL** – means the Federal Poverty Level, which is based on the 2003 Federal Poverty Guidelines, published by the U.S. Department of Health and Human Services.

**Income Level** – means that which is equal to 200% of the FPL based on the 2003 Federal Poverty Guidelines, published by the U.S. Department of Health and Human Services.

**SMI** – means the State Median Income or the Estimated State Median Income for Federal Fiscal Year 2003, as established by the U.S. Department of Health and Human Services and published in the *Federal Register*, January 30, 2002.

Persons who wish to comment on these proposed rules may do so, in writing no later than thirty (30) days after the publication of this notice in the *D.C. Register*. Comments should be forwarded to Barbara Ferguson Kamara, Executive Director, Office of Early Childhood Development, D. C. Department of Human Services, 717 14<sup>th</sup> Street, N.W., Suite 1200, Washington, D.C. 20005. Copies of these proposed rules may be obtained by writing to the above address or by walk-in at the following address: 717 14<sup>th</sup> Street, N.W., Suite 1200, Washington, D.C. 20005, Monday through Friday, between 8:15 AM and 4:45 PM.

DISTRICT OF COLUMBIA  
DEPARTMENT OF MOTOR VEHICLES

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Motor Vehicles, pursuant to the authority set forth in Section 1425 of the Department of Motor Vehicles Establishment Act of 1998, effective March 26, 1999 (D.C. Law 12-175; D.C. Official Code §§ 50-901 et seq.) (2001), Section 5 of An Act to Provide for Annual Inspection of All Motor Vehicles in The District of Columbia, approved February 18, 1938 (52 Stat. 78; D.C. Official Code § 50-1105) (2001); and 18 § DCMR 752.4, hereby gives notice of the intent to adopt the following rulemaking that amends Chapter 6, sections 603 and 604, and Chapter 7, section 752, of Title 18 of the District of Columbia Municipal Regulations (DCMR) (Vehicles and Traffic). The amendment allows for a vehicle that is deficient in a minor inspection requirement to receive an approved sticker that will require that the deficiency be corrected by the next inspection. In addition, the rulemaking adopts the federal On Board Diagnostic emissions inspection requirements, as requested by the D.C. Department of Health Air Quality Program. Final rulemaking action shall not be taken in less than thirty (30) days from the date of publication of this notice in the D.C. Register.

Title 18, DCMR, is amended as follows:

- A. Section 603, VEHICLE INSPECTION: APPROVED VEHICLES, is amended as follows:  
by adding a new subsection 603.4 to read as follows:

603.4 Any Class D passenger vehicle that exhibits one or more of the following deficiencies upon inspection shall be issued an approved inspection sticker together with a warning that the vehicle will be rejected at the next inspection if the defects are not corrected:

- (a) Missing, inaccurate, or mutilated registration document;
- (b) Improper tag mounting;
- (c) Damaged or rusted door, provided there are no visible holes;
- (d) Damaged body;
- (e) Minor dent on vehicle that does not affect the vehicle's operation;
- (f) Missing or broken mirror on passenger side;
- (g) Low decibel horn;
- (h) Missing or broken gear indicator;

- (i) Inoperative tag light;
  - (j) Inoperative clearance light;
  - (k) Inoperative tail light, provided the vehicle has three (3) operative tail lights;
  - (l) Inoperative stop light, provided the vehicle has three (3) operative stop lights;
  - (m) Inoperative marker lights;
  - (n) Inoperative fog lights;
  - (o) Damaged or missing rear or side reflectors;
  - (p) Minor cracked or damaged windshield, provided no crack or damaged portion is larger than three (3) inches in diameter; or
  - (q) Missing one (1) lug nut on tire.
- B. Section 604, VEHICLE INSPECTION: REJECTED VEHICLES, subsection 604.2 is amended by inserting after the phrase "rejection sticker" the phrase ", except as provided in § 603.4.
- C. Section 752, MAXIMUM ALLOWABLE LEVELS OF EXHAUST COMPONENTS, subsection 752.3 is amended to read as follows:

752.3 Notwithstanding any other provision in this Section, all vehicles 1996 or newer shall comply with federal On Board Diagnostic testing standards in effect on July 1, 2003, as published in the Code of Federal Regulations, Title 40, Chapter 1, Part 85.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments, in writing, to Angel Irene, Policy Analyst, D.C. Department of Motor Vehicles, 65 K Street, N.E., Washington, D.C. 20002. Comments must be received not later than thirty (30) days after the publication of this notice in the D.C. Register. Copies of this proposal may be obtained, at cost, by writing to the above address.

## DISTRICT OF COLUMBIA DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED RULEMAKING

DOCKET NUMBER 03-53-TS

The Director of the Department of Transportation, pursuant to the authority in sections 3, 5(3), and 6 of the Department of Transportation Establishment Act of 2002, effective May 21, 2002 (D.C. Law 14-137; D.C. Official Code §§ 50-921.02, 50-921.04(3) and 50-921.05), and sections 6(a)(1), 6(a)(6) and 6(b) of the District of Columbia Traffic Act, approved March 3, 1925 (43 Stat. 1121; D.C. Official Code § 50-2201.03(a)(1), (a)(6) and (b)), hereby gives notice of the intent to amend the Vehicle and Traffic Regulations (18 DCMR). Final rulemaking action shall be taken in not less than thirty (30) days from the date of publication of this notice in the D.C. Register.

The following rulemaking action is proposed:

Title 18 DCMR, Section 4030, PLAY STREETS, Subsection 4030.1, (a) Northwest Section, is amended by adding the following to the list of locations where streets are designated as Play Streets:

“On 10<sup>th</sup> Street, N.W., between U Street and V Street, between 11:30 am to 1:30 pm, on School Days”.

All persons interested in commenting on the subject matter in this proposed rulemaking action may file comments in writing, not later than thirty days (30) days after the publication of this notice in the D.C. Register, with the Department of Transportation, Traffic Services Administration, 2000 14<sup>th</sup> Street, N.W., 7<sup>th</sup> Floor, Washington, D.C. 20009 (Attention: Docket No. 03-53-TS). Copies of this proposal are available, at cost, by writing to the above address.

## DEPARTMENT OF HEALTH

## NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in An Act to enable the District of Columbia to receive Federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 774; D.C. Official Code, § 1-307.02), Reorganization Plan No. 4 of 1996, and Mayor's Order 97-42, dated February 18, 1997, hereby gives notice of the adoption, on an emergency basis, of an amendment to Chapter 9 of Title 29 DCMR "Public Welfare," by adding a new section 937. These rules establish standards governing reimbursement by the District of Columbia Medicaid Program for preventive, consultative and crisis support services provided by health care professionals to participants with mental retardation in the Home and Community Based Services Waiver for Persons with Mental Retardation and Developmental Disabilities (Waiver). These rules also establish reimbursement rates for preventive, consultative and crisis support services.

On February 14, 2003, a notice of emergency and proposed rulemaking was published in the *DC Register* (50 DCR 1592). These emergency rules amend the previously published rules by adding a section to limit the number of hours a client may receive preventive, consultative and crisis support services during a one year period to ensure that total expenditures for all home and community-based services and other Medicaid services under the waiver does not exceed the amount that would be incurred by the State's Medicaid program for these individuals in an institutional setting. This cost neutrality requirement is included in the Waiver application approved by the Centers for Medicare and Medicaid Services (CMS), formerly the federal Health Care Financing Administration. Emergency action is necessary for the immediate preservation of the health, safety, and welfare of Waiver participants who are in need of preventive, consultative, and crisis support services.

The emergency rulemaking was adopted on June 26, 2003 and will become effective one day after publication of this notice in the *D.C. Register*. The emergency rules will remain in effect for 120 days or until October 24, 2003 unless superceded by another emergency rulemaking or by publication of a notice of final rulemaking in the *D.C. Register*, whichever comes first.

The Director gives notice of the intent to take final rulemaking action to adopt these proposed rules not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

Amend Chapter 9 (Medicaid Program) of Title 29 DCMR by adding the following new section 937 to read as follows:

**SECTION 937        PREVENTIVE, CONSULTATIVE AND CRISIS SUPPORT  
SERVICES**

937.1        Preventive, consultative, and crisis support services shall be reimbursed by the Medicaid Program for each participant with mental retardation in the Home and



Community Based Services Waiver for Persons with Mental Retardation and Developmental Disabilities (Waiver) subject to the requirements set forth in this section.

- 937.2 Preventive, consultative, and crisis support services are services that are designed to support and encourage the client in his or her decision to reside within the community, to decrease the impact of the crisis event and to assist the individual to mobilize resources and regain equilibrium through the development of effective adaptive and coping mechanisms. These services shall be available to all Waiver eligible clients to prevent any unnecessary change in placement, or placement to a more restrictive environment, or to prevent a psychiatric hospitalization. Services shall be delivered under two venues-Crisis Intervention and Stabilization and Preventive and Consultative.
- 937.3 Crisis intervention and stabilization services eligible for reimbursement include, but are not limited to the following services:
- (a) An on-site assessment of the crisis situation, the client's strength and resources;
  - (b) The development of intervention strategies, including person-specific intervention strategies, which address environmental and emotional issues that may affect the client's behavior;
  - (c) Training on proactive strategies and behavioral interventions by guiding the client through exploration and identification of the problem and interpretation and resolution thereof;
  - (d) Crisis supervision or expanded supervision and monitoring to stabilize the client;
  - (e) Formulate a constructive plan and mobilize the client's resources; and
  - (f) Follow-up services which include a review of the client's progress.
- 937.4 The provider shall develop a written plan for crisis intervention which shall include all of the following information:
- (a) The names of individuals to be contacted in the event of a crisis;
  - (b) The process of responding to a crisis or emergency;
  - (c) A list of appropriate referrals;
  - (d) Conflict resolution counseling and problem solving;
  - (e) Training of informal caregivers for emergency and crisis stabilization;
  - (f) A written evaluation, including diagnosis and proposed treatment; and
  - (g) Goals of the proposed treatment.

- 937.5 Development of the required plan set forth in section 937.4 shall be based on the following activities:
- (a) Interview of the client;
  - (b) Observation of the client at his/her residence or in the community;
  - (c) Conversations with family members, friends and other professionals;
  - (d) Interpreting results of lab or other medical diagnostic studies; and
  - (e) Medical and psychiatric history.
- 937.6 Preventive and consultative services eligible for reimbursement include, but are not limited to the following services:
- (a) Training on creating positive environments and coping mechanisms, developing interventions, teamwork, and developing evaluation strategies to assess the effectiveness of interventions;
  - (b) Consultative services to assist in the development of person-specific strategies;
  - (c) Development and implementation of functional assessment techniques and strategies; and
  - (d) Development of an effective strategy for crisis prevention.
- 937.7 Preventive, consultative, and crisis support services are available to family members, service providers, or other individuals that provide support and/or services to the client.
- 937.8 Preventive, consultative, and crisis services may be provided to supplement traditional medical and clinical services available under the District of Columbia State Plan for Medical Assistance.
- 937.9 Preventive, consultative, and crisis support services shall be authorized and provided in accordance with each client's individual habilitation plan (IHP) or individual support plan (ISP).
- 937.10 Each provider of preventive, consultative and crisis support services shall:
- (a) Be a non-profit organization, home health agency, social service agency or other business entity;
  - (b) Have a current District of Columbia Medicaid Provider Agreement that authorizes the provider to bill for preventive, consultative and crisis support services under the Waiver;

- (c) Maintain a copy of the most recent IHP or ISP approved by the Department of Human Services, Mental Retardation and Developmental Disabilities Administration (MRDDA);
- (d) Ensure that all preventive, consultative, and crisis support services staff are qualified and properly supervised;
- (e) Ensure that the service provided is consistent with the client's IHP or ISP;
- (f) Offer the Hepatitis B vaccination to each person providing services pursuant to these rules and maintain a copy of the acceptance or declination of the vaccine; and
- (g) Provide training in infection control procedures consistent with the requirements of the Occupational Safety and Health Administration, U.S. Department of Labor, as set forth in 29 CFR 1910.1030.

937.11 Persons authorized to provide preventive, consultative, and crisis support services are as follows:

- (a) Psychologist;
- (b) Graduate Social Worker;
- (c) Independent Clinical Social Worker;
- (d) Registered Nurse; or
- (e) Paraprofessional working under the supervision of the psychologist, graduate social worker, independent clinical social worker or registered nurse.

937.12 Each psychologist shall have a Masters degree from an accredited institution and have at least three (3) years of experience in a setting providing habilitation and crisis support services to persons with mental retardation and other developmental disabilities.

937.13 Each psychologist shall possess professional knowledge of psychological principles, theories and methods with an ability to develop and implement treatment plans.

937.14 Each social worker shall have a Masters degree from a school of social work accredited by the Council in Social Work Education and have at least three (3) years of experience in a setting providing habilitation and crisis support services to persons with mental retardation and other developmental disabilities.

937.15 Each social worker shall possess knowledge of human behavior and of public and private human service systems in the District of Columbia.

- 937.16 Each registered nurse shall have at least three (3) years of experience in a setting providing habilitation and crisis support services to persons with mental retardation and other developmental disabilities.
- 937.17 Each psychologist, social worker and registered nurse shall have a minimum of one year's experience developing, implementing and monitoring behavior intervention plans, and developing effective interventions in response to crisis situations.
- 937.18 Each paraprofessional shall receive training on the ISP and IHP and meet all of the following qualifications:
- (a) Have a high school diploma or general educational development certificate;
  - (b) Have basic training and education in mental health;
  - (c) Have a minimum of one year experience working with persons with challenging behaviors; and
  - (d) Have a minimum of three years experience working with persons with mental retardation and developmental disabilities.
- 937.19 Each person providing preventive, consultative, and crisis support services shall meet all of the following requirements:
- (a) Be at least eighteen (18) years of age;
  - (b) Be acceptable to the client;
  - (c) Demonstrate annually that he or she is free from communicable disease, as confirmed by an annual PPD Skin Test or provide documentation from a physician, stating that he or she is free from communicable disease;
  - (d) Be able to communicate with the client;
  - (e) Have a minimum of one year experience developing, implementing, and monitoring behavior intervention plans, and developing effective interventions in response to crisis situations;
  - (f) Be able to read and write the English language;
  - (g) Have completed training in crisis intervention and positive behavioral interventions;
  - (h) Complete pre-service and in-service training required by MRDDA;
  - (i) Have the ability to provide preventive, consultative and crisis support services consistent with the client's IHP or ISP; and
  - (j) Comply with the requirements of the Health-Care Facility Unlicensed Personnel Criminal Background Check Act of 1998, effective April 20, 1999, as amended by the Health-Care Facility Unlicensed Personnel Criminal Background Check Amendment Act of 2002, effective April 13, 2002, (D.C. Laws 12-238 and 14-98; D.C. Official Code § 44-551 et seq.) and implementing rules.

- 937.20 Preventive, consultative, and crisis support services shall be made available twenty-four (24) hours a day, seven days a week. Services may be accessed during regular work hours through the client's case manager. In the event of an after hours emergency, authorization for services may be obtained by contacting MRDDA.
- 937.21 The reimbursement rate for preventive, consultative and crisis support services shall be \$150.00 for an initial assessment and \$45.00 per hour for a follow-up visit. The rate paid for the initial assessment includes the duration of time that it takes for each provider to complete a thorough assessment of the client and develop the written plan for crisis intervention.
- 937.22 Preventive, consultative and crisis support services shall be limited to 104 hours per client during any one year period, which shall commence on the date that the services are authorized.

**937.99 DEFINITIONS**

When used in this section, the following terms and phrases shall have the meanings ascribed:

Client—An individual with mental retardation who has been determined eligible to receive services under the Home and Community-Based Waiver for Persons with Mental Retardation and Developmental Disabilities.

Communicable Disease—Shall have the same meaning as set forth in section 201 of Chapter 2 of Title 22, District of Columbia Municipal Regulations.

Crisis—A situation where the client is exhibiting threatening behavior, or appears to be capable of causing physical harm or damage to another individual, personal property, or themselves.

Crisis Intervention and Stabilization Services—Services that are designed to provide an immediate on-call crisis support at the client's home due to an emergency or unpredicted crisis to assist the client to mobilize resources, regain equilibrium and develop effective adaptive and coping mechanisms.

Crisis Supervision/Expanded Supervision—Supervision of the client during the crisis by professionals or a paraprofessional consistent with the requirements of this section.

Functional Assessment—Includes (1) indirect assessment techniques such as interviews, written record reviews and questionnaires; (2) direct assessment techniques such as observation of the client, documentation of the frequency, duration and intensity of problem behaviors; and (3) the evaluation of the

relationship between the environmental and emotional variables and the occurrence of problem behaviors.

**Graduate Social Worker**—A person who is licensed as a graduate social worker pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1202 et seq.) or licensed as a graduate social worker in the jurisdiction where the services are being provided.

**Independent Clinical Social Worker**—A person who is licensed as an independent clinical social worker pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1202 et seq.) or licensed as an independent clinical social worker in the jurisdiction where the services are being provided.

**Individual Habilitation Plan (IHP)**—That plan as set forth in section 403 of the Mentally Retarded Citizens Constitutional Rights and Dignity Act of 1978, effective March 3, 1979 (D.C. Law 2-137; D.C. Official Code § 7-1304.03).

**Individual Support Plan (ISP)**—The successor to the individual habilitation plan (IHP) as defined in the court-approved Joy Evans Exit Plan.

**Paraprofessional**—A trained worker who is not a member of a given profession but who assists a professional.

**Psychologist**—A person who is licensed to practice psychology pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1202 et seq.) or licensed as a psychologist in the jurisdiction where the services are being provided.

**Preventive and Consultative Services**—Services that are designed as an ongoing, preventive service to improve and maintain outcomes in the health, attitude and behavior of the client.

**Registered Nurse**—A person who is licensed to practice registered nursing pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1202 et seq.) or licensed as a registered nurse in the jurisdiction where the services are being provided.

**Regular Work Hours**—Shall mean the hours of 9:00 AM to 5:00 PM, Monday through Friday, except days determined to be holidays by the District of Columbia government.

Comments on the proposed rules should be sent in writing to Wanda R. Tucker, Interim Senior Deputy Director, Medical Assistance Administration, Department of Health, 825 North Capitol Street, N.E., 5<sup>th</sup> Floor, Washington, D.C. 20002, not later than thirty (30) days from the date of publication of this notice in the *D.C. Register*. Copies of the proposed rules may be obtained from the same address.

**THE DISTRICT OF COLUMBIA  
LOTTERY AND CHARITABLE GAMES CONTROL BOARD**

**NOTICE OF EMERGENCY AND PROPOSED RULEMAKING**

The Executive Director of the District of Columbia Lottery and Charitable Games Control Board, pursuant to the authority set forth in D.C. Official Code §3-1306, District of Columbia Financial Responsibility and Management Assistance Authority Order issued September 21, 1996, and Office of the Chief Financial Officer Financial Management Control Order No. 96-22 issued November 18, 1996, hereby gives notice of the adoption of amendments to Chapters 5, 6 and 10 of Title 30 DCMR, "Lottery and Charitable Games." These amendments are necessary to avoid significant financial loss to the District and loss of goodwill to the District of Columbia Lottery and Charitable Games Control Board. This emergency rulemaking was adopted on July 28, 2003 and became effective on that date. The Executive Director also gives notice of her intent to take final rulemaking action to adopt these amendments in no less than thirty (30) days from the date of publication of this notice in the D.C. Register.

These emergency rules will expire in one hundred twenty (120) days from the effective date or upon publication of a Notice of Final Rulemaking in the D.C. Register, whichever occurs first.

**AMEND CHAPTER 5, "GENERAL PROVISIONS"**

Amend section 500.6 to read as follows:

- 500.6 The purchaser of a lottery ticket shall be bound by, and subject to, all Agency rules, regulations, game or other instructions, issuances, policies, procedures, and the Executive Director's determinations and decisions, except that the denial of a prize claim pursuant to Chapter 6 of this title may be appealed in accordance with Chapter 4 of this title.

**AMEND CHAPTER 6, "CLAIMS AND PRIZE PAYMENTS"**

Amend section 611 to read as follows:

**611 DISCHARGE OF LIABILITY UPON PAYMENT**

- 611.1 Payment of any prize, including a POWERBALL® or Daily Millions prize, or a prize awarded pursuant to Chapter 10 of this title, shall discharge the District of Columbia, the Agency, the Multi-State Lottery Association, and their members, product groups, officers, employees, agents and attorneys, representatives, and contractors of all liability for payment of the prize.

611.2 [DELETED]

Amend section 614.1 to read as follows:

- 614.1 Pursuant to D.C. Code §2-536(6) (2001), a prizewinner's name, city, county and state of residence, winnings, and all associated game, play and prize information are records, or a portion of records, required to be made available to the public.

Information about or concerning prizewinners or participants in Agency activities authorized at Chapter 10 of this title may also be contained in records, or a portion of records, required to be made available to the public pursuant to D.C. Code § 2-531 through § 2-539 (2001).

Amend section 614.3 to read as follows:

- 614.3 The Executive Director may direct that prizewinners, or participants in Agency activities authorized at Chapter 10 of this title, be photographed or videotaped to complete the Agency's records and for the purposes identified in § 614.4.

Amend section 614.4 to read as follows:

- 614.4 A prizewinner, or participation in Agency activities authorized at Chapter 10 of this title, consents, without further consideration or expectation of payment, to the Agency's use of the prizewinner's name, county, city and state of residence, the games played, the amount of the prize and any photographic or video-graphic replication of the prizewinner's likeness or image for promotional purposes. "Promotional purposes" shall include, without limitation, advertising, publication and promotion of the Agency, its games, programs, contests and other activities in any print, broadcast, electronic, Internet or other form or media whatsoever.

Add section 614.5 to read as follows:

- 614.5 Each prizewinner, or participant in Agency activities authorized at Chapter 10 of this title, releases the District of Columbia, the Agency, Multi-State Lottery Association, and their respective game groups, members, officers, employees, agents and attorneys, representatives, and contractors from all claims and liability arising out of, or related to, the promotional purposes, and use of the information and likenesses, set out in § 614.4.

Add section 614.6 to read as follows:

- 614.6 The provisions of § 614.4 and § 614.5, which are applicable to prizewinners shall also apply to any person who presents a prize claim that is later denied or forfeited for any reason.

#### **AMEND CHAPTER 10, "OTHER GAMES"**

Add Section 1000.9 to read as follows:

- 1000.9 A participant or entrant in any Agency sweepstakes, contest, bonus game, second chance drawing, or other promotional game, device or campaign authorized by this Chapter shall be bound by, and subject to, all Agency rules, regulations, game or other instructions, issuances, policies, procedures, and the Executive Director's determinations and decisions.



All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not later than thirty (30) days from the date of publication of this notice in the Register. Comments should be filed with the Executive Director, District of Columbia Lottery and Charitable Games Control Board, 2101 Martin Luther King, Jr., Avenue, S.E., Washington, D.C. 20020. Copies of these proposed rules may be obtained at the address stated above.